

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE AWARD OF A CIVIL PENALTY FOR A VIOLATION OF THE CONSTITUTIONAL RIGHT TO KNOW; AMENDING SECTION 2-3-221, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-3-221, MCA, is amended to read:

"2-3-221. Costs to plaintiff and civil penalties in certain actions to enforce constitutional right to know. (1) A plaintiff who prevails in an action brought in district court to enforce the plaintiff's rights under Article II, section 9, of the Montana constitution may be awarded costs and reasonable attorney fees.

(2) In addition or as an alternative to the award of costs and fees as provided in subsection (1), the court may award a reasonable civil penalty or damages in an amount determined by the court. In awarding a penalty or damages under this subsection, the court shall consider:

(a) the intentional or unintentional nature of the violation;

(b) the length of the violation after the violator became aware of the violation;

(c) the nature and extent of harm done to the plaintiff or the public interest; and

(d) whether costs and fees or either of them were awarded pursuant to subsection (1).

(3) A civil penalty levied pursuant to this section must be paid to the court and deposited in the state general fund unless monetary damages have been proven by the plaintiff, in which case the court shall award to the plaintiff the amount that will compensate the plaintiff for those damages."

NEW SECTION. Section 2. Applicability. [This act] applies to a violation of the right to know occurring on or after October 1, 2009.

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